

DoD Components. The Office of the Secretary of Defense, the Military Departments, the Defense Agencies, and DoD Field Activities.

Grant. A legal instrument which, consistent with 31 U.S.C. 6304, is used to enter into a relationship:

(1) The principal purpose of which is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, rather than to acquire property or services for the Department of Defense's direct benefit or use.

(2) In which substantial involvement is not expected between the Department of Defense and the recipient when carrying out the activity contemplated by the grant.

Grants officer. An official with the authority to enter into, administer, and/or terminate grants or cooperative agreements.

Nonprocurement instrument. A legal instrument other than a procurement contract. Examples include instruments of financial assistance, such as grants or cooperative agreements, and those of technical assistance, which provide services in lieu of money.

Procurement contract. A legal instrument which, consistent with 31 U.S.C. 6303, reflects a relationship between the Federal Government and a State, a local government, or other recipient when the principal purpose of the instrument is to acquire property or services for the direct benefit or use of the Federal Government. See the more detailed definition for contract at 48 CFR 2.101.

Recipient. An organization or other entity receiving a grant or cooperative agreement from a DoD Component.

Subpart B—Authorities and Responsibilities

§ 21.200 Purpose.

This subpart describes the sources and flow of authority to use grants and cooperative agreements, and assigns the broad responsibilities associated with DoD Components' use of such instruments.

§ 21.205 DoD Components' authorities.

(a) In accordance with 31 U.S.C. 6301 *et seq.*, DoD Components shall use grants and cooperative agreements as legal instruments reflecting assistance relationships between the United States Government and recipients.

(b) Unlike the use of a procurement contract (for which Federal agencies have inherent, Constitutional authority), use of a grant or cooperative agreement to carry out a program requires authorizing legislation, the intent of which supports the use of an assistance instrument (e.g., the intent of the legislation authorizing a program supports a judgment that the principal purpose of the program is assistance, rather than acquisition). DoD Components may award grants and cooperative agreements under a number of statutory authorities that fall into three categories:

(1) *Authorities that statutes provide to the Secretary of Defense.* These authorities generally are delegated by the Secretary of Defense to Heads of DoD Components, usually through DoD directives, instructions, or policy memoranda that are not part of the Defense Grant and Agreement Regulatory System. Examples of statutory authorities in this category are:

(i) Authority under 10 U.S.C. 2391 to make grants or conclude cooperative agreements to assist State and local governments in planning and carrying out community adjustments and economic diversification required by changes in military installations or in DoD contracts or spending that may have a direct and significant adverse consequence on the affected community.

(ii) Authority under 10 U.S.C. 2413 to enter into cooperative agreements with entities that furnish procurement technical assistance to businesses.

(2) *Authorities that statutes may provide directly to Heads of DoD Components.* When a statute authorizes the head of a DoD Component to use a grant or cooperative agreement or to carry out a program with a principal purpose of assistance, use of that authority requires no delegation by the Secretary of Defense. For example, 10 U.S.C. 2358 authorizes the Secretaries